

HOUSE BILL 1478

C7

2lr3443

By: **Delegates Jameson, Wilson, and Wood**

Rules suspended

Introduced and read first time: March 19, 2012

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Video Lottery Terminals and Table Games – Expansion**

3 FOR the purpose of authorizing the awarding of an additional video lottery operation
4 license and a certain number of additional video lottery terminals for a video
5 lottery facility in Charles County in a vessel moored to a pier on the Potomac
6 River; repealing a certain prohibition against an individual or a business entity
7 owning an interest in more than one video lottery facility; repealing certain
8 prohibitions against a video lottery operation licensee providing food or alcoholic
9 beverages to individuals at no cost; altering the amount the Comptroller pays to
10 a video lottery operation licensee from the proceeds of video lottery terminals;
11 repealing a certain prohibition against a holder of a video lottery operation
12 license or any other person with a certain interest in the Ocean Downs
13 racetrack or video lottery facility from building or operating certain structures
14 within a certain location or offering to patrons of the video lottery facility the
15 playing of live music or certain other live entertainment under certain
16 conditions; authorizing the holder of a video lottery operation license to offer
17 table games in the State; specifying certain distributions of proceeds of table
18 games; prohibiting the charging of a certain license fee; specifying the types of
19 table games that may be authorized in the State; authorizing the State Lottery
20 Commission to determine the suitability of certain table games under certain
21 circumstances; requiring certain legislation under certain circumstances;
22 making a certain technical correction; submitting this Act to a referendum of
23 the qualified voters of the State for their adoption or rejection; and generally
24 relating to gaming in the State.

25 BY repealing and reenacting, with amendments,
26 Article – State Government
27 Section 9–1A–05(a) and (d), 9–1A–24, 9–1A–27, and 9–1A–36(f), (h), (i)(1), and
28 (q)(1)
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

9–1A–05.

(a) The Video Lottery Facility Location Commission established under § 9–1A–36 of this subtitle may not:

(1) award more than ~~[five]~~ **SIX** video lottery operation licenses;

(2) award more than ~~[15,000]~~ **16,500** video lottery terminals for operation at video lottery facilities in the State;

(3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle, award more than 4,750 terminals for operation at any video lottery facility; and

(4) for a location in Allegany County:

(i) award a video lottery operation license to an applicant that does not agree to purchase the Rocky Gap Lodge and Resort; and

(ii) notwithstanding § 9–1A–36(i)(2) of this subtitle, award more than 1,000 video lottery terminals for operation at a video lottery facility in Allegany County.

(d) (1) In this subsection, “owner” includes any type of owner or beneficiary of a business entity, including an officer, director, principal employee, partner, investor, stockholder, or beneficial owner of the business entity and, notwithstanding any other provisions of this subtitle, including a person having any ownership interest regardless of the percentage of ownership interest.

(2) An individual or business entity may ~~[not]~~ own an interest in more than one video lottery facility.

(3) A member of the Senate of Maryland or the House of Delegates may not be an owner or an employee of any business entity that holds a video lottery operation license.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, an individual or business entity may enter into a management agreement to operate a facility located in Allegany County that it does not own, subject to the approval of the Video Lottery Facility Location Commission and the State Lottery Commission.

1 9-1A-24.

2 (a) [Except as provided in subsection (b) of this section, the] **THE**
3 Commission shall ensure that a video lottery operation licensee complies with the
4 requirements of this section as a condition of holding the video lottery operation
5 license.

6 [(b) (1) The county alcoholic beverages licensing authority for the county
7 in which a video lottery facility is located shall ensure that the video lottery licensee
8 complies with the requirements of this subsection.

9 (2) Except as provided in paragraph (4) of this subsection, a video
10 lottery operation licensee may not provide food or alcoholic beverages to individuals at
11 no cost.

12 (3) Any food or alcoholic beverages offered by a video lottery operation
13 licensee for sale to individuals may be offered only at prices that are determined by
14 the county alcoholic beverages licensing authority to be commensurate with the price
15 of similar types of food and alcoholic beverages at restaurants in the county in which
16 the video lottery facility is located.

17 (4) A video lottery operation licensee may provide food at no cost to
18 individuals to the same extent allowed under Article 2B, § 12-106 of the Code for a
19 person engaged in the sale or barter of spirituous, malt, or intoxicating liquors and
20 licensed under the laws of Maryland.]

21 [(c) (B) A video lottery operation licensee shall ensure that intoxicated
22 individuals and individuals under the age of 21 years are not allowed to play video
23 lottery terminals and are not allowed in areas of the video lottery facility where video
24 lottery terminals are located.

25 [(d) (C) (1) By regulation, the Commission shall provide for the
26 establishment of a list of individuals who are to be mandatorily excluded or ejected by
27 a video lottery operation licensee from any video lottery operation licensed under this
28 subtitle.

29 (2) The regulations under this subsection shall define the standards
30 for exclusion or ejection and shall include standards relating to individuals:

31 (i) who are career offenders as defined by regulations adopted
32 by the Commission;

33 (ii) who have been convicted of a criminal offense under the
34 laws of the United States or any jurisdiction within the United States that is a
35 criminal offense involving moral turpitude or a gambling offense; or

1 (iii) whose presence in the establishment of a licensee would be
2 adverse to the interest of the State, the licensee, or the person.

3 (3) The Commission may impose sanctions on a licensee in accordance
4 with this subtitle if the licensee knowingly fails to exclude or eject from the premises
5 of the licensee an individual placed by the Commission on the list of individuals to be
6 excluded or ejected.

7 (4) An order under this subsection is subject to judicial review.

8 **[(e)] (D)** (1) By regulation, the Commission shall adopt measures that
9 are intended to reduce or mitigate the effects of problem gambling.

10 (2) The regulations shall:

11 (i) include establishment of a voluntary exclusion list of
12 individuals with gambling problems who have requested to be excluded from any video
13 lottery operation licensed under this subtitle; and

14 (ii) provide a simple mechanism for an individual who is sober
15 and informed to request placement on the voluntary exclusion list for a specified
16 period of time.

17 (3) A video lottery operation licensee may not permit an individual on
18 the voluntary exclusion list to enter into the video lottery facility or to play a video
19 lottery terminal.

20 (4) The Commission may impose sanctions on a licensee in accordance
21 with this subtitle if the licensee knowingly fails to exclude from the premises of the
22 licensee an individual on the voluntary exclusion list.

23 **[(f)] (E)** In order to protect the public interest, the regulations shall include
24 provisions that:

25 (1) limit the number and location of and maximum withdrawal
26 amounts from automated teller machines;

27 (2) require payouts above an amount adopted by the Commission to be
28 made by check;

29 (3) require conspicuous disclosures related to the payout of video
30 lottery terminals;

31 (4) limit the dollar amount that video lottery terminals will accept;

1 (5) prohibit the use of specified negotiable instruments at video lottery
2 facilities and the use of credit cards, debit cards, and similar devices in video lottery
3 terminals;

4 (6) provide consumers with a record of video lottery terminal spending
5 levels if marketing measures are utilized that track consumer spending at video
6 lottery facilities;

7 (7) prohibit consumers from cashing paychecks at video lottery
8 facilities; and

9 (8) prohibit video lottery operation licensees from engaging in or
10 contracting with another to engage in predatory marketing practices.

11 **[(g)] (F)** (1) A video lottery operation licensee may not, directly or
12 indirectly, interfere with, hinder, obstruct, impede, or take any action to delay the
13 implementation or establishment of a video lottery facility by any other licensee or
14 applicant for a video lottery operation license awarded or issued under this subtitle.

15 (2) (i) The Commission shall adopt regulations, to the fullest
16 extent allowed by the first amendment of the Constitution of the United States, to
17 carry out the provisions of this subsection.

18 (ii) The regulations adopted under this subsection shall include
19 provisions:

20 1. that expressly prohibit:

21 A. taking any of the actions described in paragraph (1) of
22 this subsection relating to the issuance of required State or local governmental
23 approvals for the establishment of a video lottery facility; or

24 B. providing funding or other material support to engage
25 in any of the actions described in paragraph (1) of this subsection;

26 2. that prohibit, as unlawful indirect conduct, activity:

27 A. by an entity in which the licensee owns a beneficial or
28 proprietary interest; or

29 B. by an entity in which an affiliate of the licensee owns
30 a beneficial or proprietary interest; and

31 3. that allow the Commission to impose sanctions and
32 penalties in accordance with § 9-1A-25 of this subtitle if a licensee knowingly violates
33 paragraph (1) of this subsection.

1 9–1A–27.

2 (a) Except as provided in subsection (b) of this section, on a properly
3 approved transmittal prepared by the Commission, the Comptroller shall pay the
4 following amounts from the proceeds of video lottery terminals at each video lottery
5 facility:

6 (1) 2% to the State Lottery Agency for costs as defined in § 9–1A–01 of
7 this subtitle;

8 (2) **40%** to the video lottery operation licensee[, the percentage stated
9 in the accepted application for the location, not to exceed 33%];

10 (3) 5.5% in local impact grants, in accordance with § 9–1A–31 of this
11 subtitle;

12 (4) 7% to the Purse Dedication Account established under § 9–1A–28
13 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

14 (5) for the first 8 years of operations at a video lottery facility, 2.5% to
15 the Racetrack Facility Renewal Account established under § 9–1A–29 of this subtitle,
16 not to exceed a total of \$40,000,000 to the Account annually;

17 (6) 1.5% to the Small, Minority, and Women–Owned Businesses
18 Account established under § 9–1A–35 of this subtitle; and

19 (7) the remainder to the Education Trust Fund established under §
20 9–1A–30 of this subtitle.

21 (b) (1) For the first 10 years of operations at a video lottery facility in
22 Allegany County, on a properly approved transmittal prepared by the Commission, the
23 Comptroller shall pay the following amounts from the proceeds of video lottery
24 terminals at a video lottery facility in Allegany County:

25 (i) 2% to the State Lottery Agency for costs as defined in §
26 9–1A–01 of this subtitle;

27 (ii) to the video lottery operation licensee, the percentage stated
28 in the accepted application for the location, not to exceed 50%;

29 (iii) 2.75% in local impact grants, in accordance with § 9–1A–31
30 of this subtitle;

31 (iv) 2.5% to the Purse Dedication Account established under §
32 9–1A–28 of this subtitle;

1 (v) 0.75% to the Small, Minority, and Women-Owned
2 Businesses Account established under § 9-1A-35 of this subtitle; and

3 (vi) the remainder to the Education Trust Fund established
4 under § 9-1A-30 of this subtitle.

5 (2) After the first 10 years of operations at a video lottery facility in
6 Allegany County, the proceeds generated at the facility in Allegany County shall be
7 allocated as provided in subsection (a) of this section.

8 (c) (1) If the costs of the State Lottery Agency are less than the proceeds
9 specified in subsection (a)(1) of this section, any amount not distributed to the State
10 Lottery Agency shall be paid to the Education Trust Fund established under §
11 9-1A-30 of this subtitle.

12 (2) The costs of the Commission shall be as provided in the State
13 budget.
14 9-1A-36.

15 (f) The Video Lottery Facility Location Commission may award not more
16 than [five] SIX video lottery operation licenses to qualified applicants, through a
17 competitive process consistent with the process for competitive sealed proposals under
18 Title 13 of the State Finance and Procurement Article.

19 (h) (1) In order to qualify for a video lottery operation license under this
20 section, a proposed video lottery facility shall be located in one of the following
21 counties:

22 (i) a location in Anne Arundel County, within 2 miles of MD
23 Route 295;

24 (ii) a location in Cecil County, within 2 miles of Interstate 95;

25 (iii) a location on State property associated with the Rocky Gap
26 State Park in Allegany County;

27 (iv) a location in Worcester County, within 1 mile of the
28 intersection of Route 50 and Route 589; [or]

29 (v) a location in Baltimore City that is:

30 1. located:

31 A. in a nonresidential area;

32 B. within one-half mile of Interstate 95;

- 1 C. within one-half mile of MD Route 295; and
- 2 D. on property that is owned by Baltimore City on the
3 date on which the application for a video lottery operation license is submitted; and
- 4 2. not adjacent to or within one-quarter mile of property
5 that is:
- 6 A. zoned for residential use; and
- 7 B. used for a residential dwelling on the date the
8 application for a video lottery operation license is submitted; **OR**

9 **(VI) SUBJECT TO § 16-105 OF THE ENVIRONMENT ARTICLE,**
10 **A LOCATION IN CHARLES COUNTY ON A VESSEL MOORED TO A PIER ON THE**
11 **POTOMAC RIVER, WITHIN 1 MILE OF WASHINGTON AVENUE IN COLONIAL**
12 **BEACH, VIRGINIA.**

13 (2) Nothing in this subtitle may be construed to preempt the exclusive
14 authority of the Video Lottery Facility Location Commission to award video lottery
15 operation licenses in accordance with this subtitle.

16 (3) (i) With respect to a video lottery operation license awarded to
17 a location under paragraph (1)(iv) of this subsection, the holder of the video lottery
18 operation license or any other person with a direct or indirect legal or financial
19 interest in the Ocean Downs racetrack or video lottery facility may not:

20 1. build any type of hotel, motel, or other public lodging
21 accommodation on or within 10 miles of the property owned by the holder of the
22 license on which a video lottery facility is operated; **OR**

23 2. convert an existing facility on or within 10 miles of
24 the property described in item 1 of this subparagraph into any type of hotel, motel, or
25 other public lodging accommodation[];

26 3. build or operate a conference center or convention
27 center, amusement park, amusement rides, arcade, or miniature golf course on or
28 within 10 miles of the property described in item 1 of this subparagraph; or

29 4. offer to patrons of the video lottery facility the playing
30 of live music, floor shows, dancing, dancing exhibitions, performances, or any other
31 form of live entertainment in or near the video lottery facility, provided that the holder
32 of the video lottery operation license for the location under paragraph (1)(iv) of this
33 subsection or another person with a direct or indirect legal or financial interest in the
34 Ocean Downs racetrack or the video lottery facility may allow:

1 A. live fireworks displays to be conducted on the
2 property; and

3 B. a single piano that is played by an individual].

4 (ii) The prohibitions under subparagraph (i) of this paragraph
5 apply to any subsequent holder of a video lottery operation license awarded under
6 paragraph (1)(iv) of this subsection.

7 (i) (1) Except as provided in paragraphs (2) and (3) of this subsection, the
8 Video Lottery Facility Location Commission may not allocate more than the following
9 number of video lottery terminals for:

10 (i) a location in Anne Arundel County – 4,750 video lottery
11 terminals;

12 (ii) a location in Baltimore City – 3,750 video lottery terminals;

13 (iii) a location in Cecil County – 2,500 video lottery terminals;

14 **(IV) A LOCATION IN CHARLES COUNTY — 1,500 VIDEO**
15 **LOTTERY TERMINALS;**

16 **[(iv)] (V)** a location in Rocky Gap State Park (Allegany County)
17 – 1,000 video lottery terminals; and

18 **[(v)] (VI)** a location in Worcester County – 2,500 video lottery
19 terminals.

20 (q) (1) Nothing in this subtitle may be construed to require the Video
21 Lottery Facility Location Commission to award all **[five] SIX** video lottery operation
22 licenses authorized under this subtitle.

23 SECTION 2. AND BE IT FURTHER ENACTED, That:

24 (a) (1) The State may authorize a holder of a video lottery operation
25 license under Article XIX of the Maryland Constitution to offer table games to the
26 public in the State.

27 (2) On a properly approved transmittal prepared by the State Lottery
28 Commission, the Comptroller shall pay the proceeds from table games at each video
29 lottery facility to the licensee of the facility.

30 (3) A holder of a video lottery operation license who offers table games
31 may not be charged a license fee.

1 (b) Subject to subsection (c) of this section, table games authorized under
2 subsection (a) of this section may include:

3 (1) roulette, baccarat, blackjack, craps, big six wheel, minibaccarat,
4 poker, pai gow poker, and sic bo, or any variation and composites of such games; and

5 (2) gaming tournaments in which players compete against one another
6 in one or more of the games authorized under item (1) of this subsection.

7 (c) The State Lottery Commission may determine the suitability of:

8 (1) the use of any variations or composites of the table games under
9 subsection (b) of this section after an appropriate test or experimental period under
10 terms and conditions that the Commission may deem appropriate; and

11 (2) any other game that is compatible with the public interest and
12 suitable for casino use after an appropriate test or experimental period deemed
13 appropriate by the Commission.

14 SECTION 3. AND BE IT FURTHER ENACTED, That the provisions of Sections
15 1 and 2 of this Act authorize the Video Lottery Facility Location Commission to award
16 one video lottery facility operation license in Charles County, and also authorize a
17 video lottery operation licensee to offer table games in the State, with both
18 authorizations subject to a referendum of the qualified voters of Maryland as provided
19 in Section 4 of this Act, and upon voter approval of this Act at the general election to
20 be held in November 2012, legislation shall be required to provide for the operation
21 and regulation of table games at a licensed video lottery facility in the State.

22 SECTION 4. AND BE IT FURTHER ENACTED, That before this Act, which
23 authorizes additional forms and an expansion of commercial gaming, becomes
24 effective, it shall first be submitted to a referendum of the qualified voters of the State
25 at the general election to be held in November 2012, in accordance with Article XIX, §
26 1(e) of the Maryland Constitution. The State Board of Elections shall do those things
27 necessary and proper to provide for and hold the referendum required by this section.
28 If a majority of the votes cast on the question are “For the referred law” the provisions
29 of this Act shall become effective on the 30th day following the official canvass of votes
30 for the referendum, but if a majority of the votes cast on the question are “Against the
31 referred law” the provisions of this Act are of no effect and null and void.

32 SECTION 5. AND BE IT FURTHER ENACTED, That, subject to the provisions
33 of Section 4 of this Act and for the sole purpose of providing for the referendum
34 required by Section 4 of this Act, this Act shall take effect July 1, 2012.